

UNDER SEAL

file

LEY, BURISH & STANTON, S.C.
ORNEYS AT LAW

TEN EAST DOTY STREET, SUITE 320
Mailing Address:
POST OFFICE BOX 1528
MADISON, WI 53701-1528

Michael M. Bartelt
John J. Berghahn
Robert J. Burish
Thomas J. Eagle
William J. "Joe" Cavitt
Richard J. Erlandson
Licensed in Illinois

Erik R. Guenther
Stephen P. Hurley*
John D. Hyland
Daniel J. Schlichting
Marie A. Stanton
Dean A. Strang
Howard A. Sweet

Tel. (608) 257-0945
Fax. (608) 257-5764
www.hbslawfirm.com
Author's e-mail:
dstrang@hbslawfirm.com

June 1, 2006

Honorable Patrick L. Willis
Branch 1
Manitowoc County Circuit Court
Post Office Box 2000
Manitowoc, WI 54221-2000

Re: ***State of Wisconsin v. Steven A. Avery***
Case No. 2005-CF-381

Dear Judge Willis:

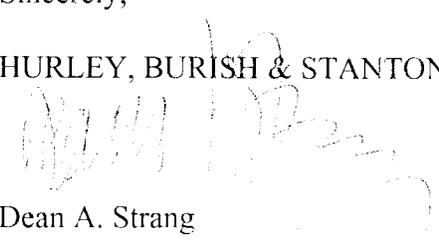
I enclose for filing **under seal** Defendant's Motion to Reduce Bail. The motion is submitted under seal because it meets, in my judgment, the criteria that the Court outlined most recently on May 3, 2006, and it includes information drawn from discovery materials.

The original motion itself is in a sealed envelope. I enclose a second copy so that the Court might acknowledge filing and return that copy file-stamped in the self-addressed, stamped envelope I also provide. Finally, I am serving counsel for the State under copy of this letter.

I appreciate the Court's help.

Sincerely,

HURLEY, BURISH & STANTON, S.C.


Dean A. Strang

DAS:mns
0607600

Enclosure

cc: Kenneth R. Kratz

SEALED

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 2005-CF-381

STEVEN A. AVERY,

Defendant.

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

JUN 14 2006

CLERK OF CIRCUIT COURT

**DEFENDANT'S MOTION TO
REDUCE BAIL**

Steven A. Avery, by counsel, now moves the Court for an order reducing bail to \$500,000 again, and allowing the defendant to post real property rather than cash as bail. He makes this motion pursuant to WIS. STAT. § 969.08(1). As grounds for this motion, Mr. Avery shows the following:

1. Mr. Avery has been in custody, unable to post bail, since November 2005, a period of more than seven months now.
2. He is a lifelong resident of Wisconsin with strong family and employment ties to Manitowoc County. Indeed, he has no ties to any other place.

3. On or about March 1, 2006, one of his nephews, Brendan Dassey, made new allegations concerning Mr. Avery's participation in the crimes charged in the amended Information, and Mr. Dassey's own participation.

4. As material here, Mr. Dassey alleged that he and Mr. Avery raped Ms. Halbach repeatedly in Mr. Avery's trailer while she was manacled to the four corners of Mr. Avery's bed. He further alleged that they cut off about 3 inches of Ms. Halbach's hair with a knife, while she was in the bed. He alleged that Mr. Avery stabbed her repeatedly in the stomach with a knife, again while she was in the bed. He alleged that he, Mr. Dassey, slit Ms. Halbach's throat with a knife, yet again while she was in the bed. According to Mr. Dassey, he and Mr. Avery then slung Ms. Halbach's body over a shoulder and carried it out of the trailer to the garage.

5. In the garage, according to Mr. Dassey's statement, Ms. Halbach already was dead. They lay her body on the garage floor. Mr. Dassey alleges that Mr. Avery there fired a .22 rifle into her repeatedly, after she was dead.

6. The statement of Brendan Dassey recited here, on which the state relies, is at least the third significantly different version of events that Mr. Dassey gave. It is not reconcilable with his earlier statements, and those are not reconcilable with one another.

7. Mr. Avery suspects, but has not yet confirmed, that on May 13, 2006, Mr. Dassey gave yet a fourth version of events to law enforcement investigators. The state has not disclosed such a statement yet to the Avery defense.

8. However, the state has disclosed results of forensic testing at the state Crime Laboratory that in part corroborate Mr. Dassey's third statement, and in larger part disprove it. In pertinent part, those results are:

a. Ms. Halbach's DNA profile was recovered from a bullet found in the garage. This supports Mr. Dassey's claim that she was shot there. But it also tells nothing about who shot her, or whether she was shot ante-mortem, peri-mortem, or post-mortem.

b. Evidence in the garage also has to be weighed with the recognition that many members of the Avery and Dassey families had regular access to the garage.

c. In Steven Avery's trailer, the Crime Laboratory identified not one instance of Teresa Halbach's DNA. There is no physical evidence that she ever was there.

i. In spite of hours purportedly struggling against four manacles, her DNA is not on any of those manacles. Two persons' DNA is present, though, so it is not that the manacles were cleaned meticulously. One person probably is Steven Avery. The other is a male — unknown, but known not to be

Brendan Dassey. Mr. Avery invites the Court to compare the results on the manacles to the state's claim that Steven Avery left his DNA on Ms. Halbach's car key simply by touching that key.

ii. Although 3 inches of her hair supposedly was cut off with a knife on the bed, not one hair fragment of Teresa Halbach's was recovered. Anyone who ever has had a haircut at the barber understands how improbable that is.

iii. Although she supposedly was stabbed repeatedly on the bed, somehow not one tiny drop of blood landed on a sheet, on the mattress pad, or on the floor; neither did blood soak into the mattress itself.

iv. Although she supposedly had her throat slashed on the bed, again somehow that left no trace of blood at all. The state claims that perhaps blood from Ms. Halbach's corpse soaked into concrete in the garage floor* after her blood pressure had dropped to zero. Yet it also must acknowledge that her blood did not soak into a mattress or its linens while she was struggling for her life, with a severely agitated person's blood pressure.

* Sheriff Jerry Pagel of Calumet County made such a statement at the March 1, 2006, press conference announcing the criminal complaint against Brendan Dassey. However, to date the defense has not received any Crime Laboratory report suggesting that Teresa Halbach's blood seeped into concrete on the garage floor. The state did remove concrete from the floor of the garage in a search at that time.

v. Although she supposedly was slung over a shoulder and carried out of Mr. Avery's trailer, yet again somehow not one trace of Ms. Halbach's blood dripped to the floor of the trailer or onto any of Mr. Avery's clothes or Mr. Dassey's clothes.

9. When the state added Mr. Dassey's allegations to the amended complaint, the Court considered those allegations as increasing the strength of the state's case, and increased bail accordingly.

10. Now that it is clear that DNA and other trace evidence belie some of Mr. Dassey's claims, and now that it further is clear that Mr. Dassey's various statements have changed dramatically and irreconcilably, the Court should consider those allegations in the light of this newer information, too. Mr. Dassey says he committed these crimes. He says Mr. Avery directed the crimes and personally participated, too. But his efforts to link Mr. Avery to critical events are disproven substantially by physical evidence. Mr. Avery for his part consistently has said that he is innocent. The physical evidence from his trailer supports his claim, and the physical evidence from the garage does not disprove it; that evidence is as consistent with Mr. Dassey's own guilt, albeit of crimes committed in a way other than his third version claimed, as it is with Mr. Avery's.

11. In short, the physical evidence and his own inconsistencies suggest strongly that Mr. Dassey is lying, if not about his own involvement then about what happened and where. Those lies weaken the state's case against Steven Avery.

12. Given Mr. Avery's strong ties to Manitowoc County and his extended pretrial detention, the Court should revert to the original bail and further should allow real property to secure that bail, rather than require cash.

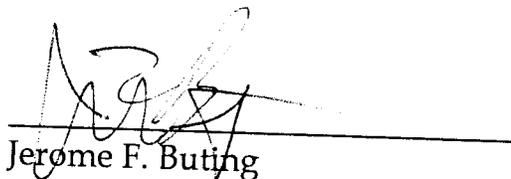
Dated at Madison, Wisconsin, June 1, 2006.

Respectfully submitted,



Dean A. Strang
Wisconsin Bar No. 1009868
Counsel for Steven A. Avery

HURLEY, BURISH & STANTON, S.C.
10 East Doty Street
Suite 320
Madison, Wisconsin 53703
[608] 257-0945
[608] 257-5764 facsimile



Jerome F. Buting
Wisconsin Bar No. 1002856
Counsel for Steven A. Avery

BUTING & WILLIAMS, S.C.
400 Executive Drive
Suite 205
Brookfield, Wisconsin 53005
[262] 821-0999
[262] 821-5599

/F:\clients\avery\MotBail053006.wpd